

REFERENCE TITLE: retail burglary; shoplifting artifice

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1446

Introduced by
Senator Gray C

AN ACT

AMENDING SECTIONS 13-1506 AND 13-1805, ARIZONA REVISED STATUTES; RELATING TO
RETAIL THEFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1506, Arizona Revised Statutes, is amended to
3 read:

4 13-1506. Burglary in the third degree; classification;
5 definition

6 A. A person commits burglary in the third degree by:

7 1. Entering or remaining unlawfully in or on a nonresidential
8 structure or in a fenced commercial or residential yard with the intent to
9 commit any theft or any felony therein.

10 2. Making entry into any part of a motor vehicle by means of a
11 manipulation key or master key, with the intent to commit any theft or felony
12 in the motor vehicle.

13 3. ENTERING OR REMAINING UNLAWFULLY IN A NONPUBLIC OR UNAUTHORIZED
14 AREA OF A RETAIL ESTABLISHMENT OR EXITING THROUGH AN UNAUTHORIZED EXIT WHILE
15 POSSESSING ANY GOODS WITHOUT PAYING THE PURCHASE PRICE.

16 B. Burglary in the third degree is a class 4 felony.

17 C. FOR THE PURPOSES OF THIS SECTION, "UNAUTHORIZED EXIT" INCLUDES AN
18 EMERGENCY EXIT OR REAR RECEIVING DOOR OF A RETAIL ESTABLISHMENT.

19 Sec. 2. Section 13-1805, Arizona Revised Statutes, is amended to read:

20 13-1805. Shoplifting; detaining suspect; defense to wrongful
21 detention; civil action by merchant; public
22 services; classification

23 A. A person commits shoplifting if, while in an establishment in which
24 merchandise is displayed for sale, the person knowingly obtains such goods of
25 another with the intent to deprive that person of such goods by:

26 1. Removing any of the goods from the immediate display or from any
27 other place within the establishment without paying the purchase price; or

28 2. Charging the purchase price of the goods to a fictitious person or
29 any person without that person's authority; or

30 3. Paying less than the purchase price of the goods by some trick or
31 artifice such as altering, removing, substituting or otherwise disfiguring
32 any label, price tag or marking; or

33 4. Transferring the goods from one container to another; or

34 5. Concealment.

35 B. Any person who knowingly conceals ~~upon~~ ON himself or another person
36 unpurchased merchandise of any mercantile establishment while within the
37 mercantile establishment is presumed to have the necessary culpable mental
38 state pursuant to subsection A of this section.

39 C. A merchant, or a merchant's agent or employee, with reasonable
40 cause, may detain on the premises in a reasonable manner and for a reasonable
41 time any person who is suspected of shoplifting as prescribed in subsection A
42 of this section for questioning or summoning a law enforcement officer.

43 D. Reasonable cause is a defense to a civil or criminal action against
44 a peace officer, a merchant or an agent or employee of the merchant for false
45 arrest, false or unlawful imprisonment or wrongful detention.

1 E. If a minor engages in conduct that violates subsection A of this
2 section, notwithstanding the fact that the minor may not be held responsible
3 because of the person's minority, any merchant WHO IS injured by the
4 shoplifting of the minor may bring a civil action against the parent or legal
5 guardian of the minor under either section 12-661 or 12-692.

6 F. Any merchant who is injured by the shoplifting of an adult or
7 emancipated minor in violation of subsection A of this section may bring a
8 civil action against the adult or emancipated minor pursuant to section
9 12-691.

10 ~~H.~~ G. In imposing sentence on a person who is convicted of violating
11 this section, the court may require any person to perform public services
12 designated by the court in addition to or in lieu of any fine that the court
13 might impose.

14 ~~G.~~ H. Shoplifting property with a value of two thousand dollars or
15 more or shoplifting property during any continuing criminal episode
16 regardless of the value of the goods is a class 5 felony. Shoplifting
17 property with a value of one thousand dollars or more but less than two
18 thousand dollars is a class 6 felony. Shoplifting property valued at less
19 than one thousand dollars is a class 1 misdemeanor, unless the property is a
20 firearm in which case the shoplifting is a class 6 felony. For the purposes
21 of this subsection, "continuing criminal episode" means theft committed from
22 at least three separate retail establishments within a period of three
23 consecutive days.

24 I. A person who commits shoplifting and who has previously committed
25 or been convicted within the past five years of two or more offenses
26 involving burglary, shoplifting, robbery or theft or who in the course of
27 shoplifting ~~entered the mercantile establishment with~~ USED an artifice,
28 instrument, container, device or other article that was intended to
29 facilitate shoplifting is guilty of a class 4 felony.